



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0094]

#### Agency Information Collection Activities; Notice and Request for Comments; Exemption for the Make Inoperative Prohibition to Accommodate People with Disabilities

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

**ACTION:** Notice and request for comments on a request for reinstatement of a previously approved collection of information.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for reinstatement of a previously approved information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval on the information collections related to aftermarket modification of vehicles to accommodate people with disabilities.

**DATES:** Comments must be submitted on or before **[INSERT DATE OF 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by the Docket No. NHTSA-2021-0094 through any of the following methods:

- Electronic submissions: Go to the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: (202) 493-2251.

- Mail or Hand Delivery: Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366-9322 before coming.

*Instructions:* All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Privacy Act:* Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000 (65 FR 19477-78) or you may visit <https://www.transportation.gov/privacy>.

*Docket:* For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets via internet.

#### **FOR FURTHER INFORMATION CONTACT:**

For additional information or access to background documents, contact Gunyoung Lee, Office of Rulemaking (NRM230), 202-366-6005, Room W43-463, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590, Please identify the relevant collection of information by referring to its OMB Control Number.

#### **SUPPLEMENTARY INFORMATION:**

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the *Federal Register* providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of

information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) How to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

**Title:** Exemption for the Make Inoperative Prohibition to Accommodate People With Disabilities.

**OMB Control Number:** 2127-0635.

**Form Number:** This collection of information uses no standard form.

**Type of Request:** Reinstatement of a previously approved collection of information.

**Type of Review Requested:** Regular.

**Requested Expiration Date of Approval:** 3 years from date of approval.

**Summary of the Collection of Information:**

The National Traffic and Motor Vehicle Safety Act (49 U.S.C. Chapter 301) authorizes NHTSA to issue Federal motor vehicle safety standards (FMVSS) applicable to new motor vehicle and new items of motor vehicle equipment. In addition to regulating the manufacture and sale of new motor vehicles and items of motor vehicle equipment, the act also prohibits certain regulated entities from knowingly making inoperative a part of a device or element of design

installed on or in a motor vehicle or motor vehicle in compliance with an applicable FMVSS (49 U.S.C. 30122). The statute authorizes the Secretary of Transportation (NHTSA) to prescribe regulations to exempt a regulated entity from the make inoperative provision if such an exemption is consistent with motor vehicle safety (49 U.S.C. 30122(c)(1)).

On February 27, 2001, NHTSA published a final rule (66 FR 12638) to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them as passengers. In that final rule, the agency issued a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal motor vehicle safety standards or altering the equipment or features to adversely affect their performance. The exemption is limited in that it allows repair businesses to modify only certain types of FMVSS-required safety equipment and features, under specified circumstances. The regulation is found at 49 CFR part 595 subpart C, “Vehicle Modifications to Accommodate People with Disabilities.” The regulation includes three collections of information: (1) a requirement for modifiers to submit identification information to NHTSA; (2) a requirement for modifiers to provide a document to the owner of the modified vehicle stating the exemptions used for that vehicle and any reduction in load carrying capacity of the vehicle of more than 100 kg (220 lbs); and (3) a requirement for modifiers to retain a copy of the information provide to the owner of the modified vehicle for five years.

#### **Description of the Need for the Information and Proposed Use of the Information:**

Commercial entities that modify vehicles after the first retail sale and wish to use the exemptions offered under this rule are required to provide NHTSA with their identification information. The registration involves a one-time submission using NHTSA’s online Manufacturer Portal<sup>1</sup> containing only the name, address, and telephone number of the modifier and a prescribed statement that they will modify vehicles for persons with disabilities and intend

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<sup>1</sup> NHTSA’s Manufacturer’s Portal is found at <https://vpic.nhtsa.dot.gov/mfrportal/>.

to avail themselves of the exemptions. Any changes in the identification information must be conveyed to the agency within 30 days. This information will be used by the agency to track entities involved in vehicle modification for persons with disabilities and is available to the public on NHTSA's website.

Modifiers must also provide each customer whose vehicle modification involves the use of the make inoperative exemptions with a list of the exemptions used in the process of modifying that vehicle.<sup>2</sup> The simplest form of this document is an annotated invoice. No specific or special forms are required. A copy of this document must also be retained by the modifier for five years. This document will be used by the consumer to understand the modifications made to his/her vehicle and their effect on vehicle safety. It may be requested by NHTSA in the event of an inquiry about the safety of the modified vehicles.

**Affected Public:** Motor vehicle repair business.

**Estimated Number of Respondents:** 765.

For this estimate, NHTSA assumed that there are 900 businesses making vehicle modifications for people with disabilities, and 85 percent of these (i.e., 765 businesses) will elect to use the exemptions available under the rule.

**Frequency:** On occasion (e.g., a customer demands a vehicle modification to accommodate people with disabilities, or a company decides to become an adaptive vehicle modification business or changes its identification information).

**Estimated Total Annual Burden Hours:** 1,432

This ICR is for three information collections. We estimate the total burden hours for this ICR to be 1,432. The burden hours for the three information collections were calculated as follows:

*Information Collection 1: Requirement to Submit Identification Information to NHTSA to Use the Exemptions*

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<sup>2</sup> 49 CFR 595.7(b) and (e).

NHTSA estimates that compiling and submitting the identification information will take approximately 10 minutes. NHTSA estimates that there are approximately 900 businesses making vehicle modifications for persons with disabilities in the United States and that 85 percent of these, or 765 businesses, will elect to use the exemptions available under the rule. After the initial registration (which occurred in 2001), NHTSA estimates that 90 businesses will either need to change their information or become new registrants who elect to use the exemptions each year. Therefore, NHTSA estimates the total burden hours associated with submitting new or updated identification information is 15 hours (90 business  $\times$  10 minutes).

To calculate the labor cost associated with submitting modifier identification information, NHTSA looked at wage estimates for the type of personnel involved with compiling and submitting the information. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for “General Office Clerks” (BLS Occupation code 43-9061) is \$16.98.<sup>3</sup> The Bureau of Labor Statistics estimates that private industry workers’ wages represent 70.4% of total labor compensation costs.<sup>4</sup> Therefore, NHTSA estimates the hourly labor costs to be \$24.12 for “General Office Clerks” (BLS Occupation code 43-9061). NHTSA estimates the total labor cost associated with the 15 burden hours (for submitting modifier identification by “office clerks”) to be approximately \$362. (15  $\times$  \$24.12 = \$361.80.)

#### *Information Collection 2: Requirement to Provide a Document to the Owner of the Modified Vehicle*

The second information collection in part 595 is the requirement to provide a disclosure to the vehicle owner. This disclosure is made with each vehicle modified using exemptions under part 595. In the final rule, we anticipated that the least costly way for a repair business to comply with this portion of the new rule would be to annotate the vehicle modification invoice as

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<sup>3</sup> See May 2020 National Occupational Employment and Wage Estimates, United States, available at [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)

<sup>4</sup> See Table 1. Employer Costs for Employee Compensation by ownership (Mar. 2021), available at <https://www.bls.gov/news.release/ecec.t01.htm>

to the exemption, if any, involved with each item on the invoice. The cost of preparing the invoice is not a portion of our burden calculation, as that preparation would be done in the normal course of business. Additionally, NHTSA’s burden estimate does not include an estimate for the time to gather the information required for the disclosure as it is assumed that this information would be gathered in the normal course of vehicle modification. Instead, NHTSA estimates that the only extra burden would be incurred for calculation of the reduction in loading-carrying capacity and annotating the information on the invoice. NHTSA estimates the time needed to annotate the invoice is 20 minutes. NHTSA estimates that there are approximately 4,250 vehicles modified under exemptions provided by 49 CFR 595.7 each year. Therefore, NHTSA estimates the total burden associated with providing disclosures to vehicle owners is 1,417 hours (20 minutes  $\times$  4,250 vehicles = 1,416.67 hours).

To calculate the labor cost associated with the 1,417 burden hours for the disclosure document requirement, NHTSA looked at the average hourly wage for “Mechanical Engineering Technicians” (BLS Occupation code 17-3027). With the BLS’s average hourly wage of \$28.00 (which represents 70.4% of total compensation according to the Bureau of Labor Statistics), NHTSA estimates the hourly labor costs to be \$39.78 for “Mechanical Engineering Technicians (BLS Occupation code 17-3027). Therefore, NHTSA estimates the total labor cost associated with the 1,417 burden hours (for providing disclosure documents to vehicle owners by “engineering technicians”) to be \$56,368 ( $1,417 \times \$39.78 = \$56,368.28$ ).

#### *Information Collection 3: Retaining a Copy of the Document Provided to Vehicle Owners*

NHTSA estimates that there are no additional burden hours associated with the requirement to retain a copy of the disclosures provided to vehicle owners. Accordingly, there are also no labor costs associated with this requirement.

Table 1 provides a summary of the estimated burden hours and labor costs associated with this collection of information request.

**Table 1: Burden Estimates**

	Annual Submissions or Responses	Estimated Burden Per Submission	Average Hourly Labor Cost	Labor Cost Per Submission	<b>Total Burden Hours</b>	Total Labor Costs
Modifier identification	90	10 minutes	\$24.12	\$4.02	<b>15</b>	\$362
Disclosure document (to vehicle owners)	4,250	20 minutes	\$39.78	\$13.26	<b>1,417</b>	\$56,368
Retention of a copy of document provided to vehicle owner	4,250	0 minutes	N/A	\$0.00	<b>0</b>	\$0.00
<b>Annual total burden hours &amp; labor costs</b>					<b>1,432</b>	\$56,730

### **Estimated Total Annual Burden Cost:**

NHTSA estimates that there are no additional costs associated with this information collection request. There will be no additional material cost associated with complying with this requirement because no additional materials need to be used except those used to prepare the invoice in the normal course of business. We are assuming that it is normal and customary in the course of vehicle modification business to prepare an invoice, to provide a copy of the invoice to the vehicle owner, and to keep a copy of the invoice for five years after the vehicle is delivered to the owner in finished form.

**PUBLIC COMMENTS INVITED:** You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

**AUTHORITY:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49



CFR 1.49; and DOT Order 1351.29.

**Raymond R. Posten,**  
Associate Administrator for Rulemaking.

[Billing Code: 4910-59-P]

[FR Doc. 2022-00371 Filed: 1/11/2022 8:45 am; Publication Date: 1/12/2022]